

UNITED STATES PATENT AND TRADEMARK OFFICE

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TED CHONGPI LEE and CHAIN N. YUNG

Application No. 09/672,204

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed on June 5, 2006, stated under the Evidence Relied Upon section, page 2 that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that prior art was applied to the

Rejections on appeal. See the Grounds of Rejection on page 3 of the Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) *Evidence Relied Upon.* A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Before further review, the examiner must submit a corrected examiner's answer that will include the reference(s) under the "Evidence Relied Upon" heading.

Also, on August 19, 2004, appellants filed a Notice of Appeal. Although, the Notice of Appeal authorized payment of any fees which may be required to Deposit Account 20-0782, the Notice of Appeal fee has not been charged.

Further, on October 19, 2006, a paper was mailed to the appellants. However, on October 30, 2006, the mail was returned to the USPTO as undelivered. Accordingly it is

ORDERED that the application is electronically returned to the Examiner to:

1) vacate the Examiner's Answer and issue a revised Examiner's Answer having the missing reference(s) listed under "Evidence Relied Upon" section; 2) for charging the Notice of Appeal fee to Deposit Account 20-0782;

- 3) for proper delivery of the paper mailed on October 19, 2006; and
- 4) and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By: *Pat J. Nolan*
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PJN/gjh

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